

In re: Roberts
USPN: 10/033,145
Filed: November 5, 2001
Page 2

I. Remarks

Claims 1-20 are currently pending. Claims 2, 3, 7-10, and 13-20 are under consideration in this application pursuant to a restriction requirement and special election.

Applicants' agent thanks the Examiner for his time on the telephone today. Further to the conversation, Applicants' agent respectfully requests that the Office reconsider and withdraw the finality of the Office Action mailed November 17, 2004 in connection with the instant patent application. Applicants' agent respectfully asserts that the Final Office Action is premature because it sets forth a new ground for rejection that was not necessitated by Applicants' amendments to the claims.

In the Final Office Action mailed November 17, 2004, the Office rejected claims 2, 3, 7-10, and 13-20 as being unpatentable under 35 U.S.C. § 103(a) over Glenn et al. (U.S. Patent No. 5,980,898) in view of Staats et al. (U.S. Patent No. 6,270,758). This is a new grounds for rejection that is based on new prior art. The Final Office Action does not indicate that this rejection was necessitated by amendments made to the claims. Applicants further assert that, while amendments to the claims were made in response to the February 24, 2004 Office Action, these amendments did not necessitate the newly issued grounds of rejection. The rejected subject matter was present in the claims prior to the issuance of the first Office Action on the merits mailed February 24, 2004.

Therefore, Applicants' agent believes that the finality of the Office Action mailed November 17, 2004 is premature. Clarification is requested so that Applicants' agent may appropriately respond to this outstanding Office Action. Applicants look forward to the Office's favorable decision in this matter and ask that the Examiner telephone to inform Applicants' agent of the outcome at his earliest convenience.

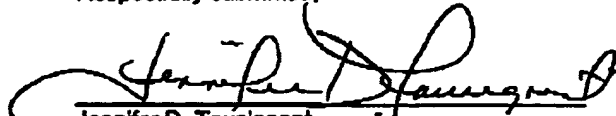
In re: Roberts
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Page 3

II. Conclusion

No fee is deemed necessary in connection with the filing of this communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 07-1074.

Respectfully submitted,

3/11/05
Date


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